State Management Plan

FTA Section 5317
New Freedom Program
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Introduction

This document comprises New York State’s Section 5317 Program State Management Plan prepared in compliance with the provisions of the US Department of Transportation - Federal Transit Administration's (FTA) Circular C 9045.1: New Freedom Program Guidance and Application Instructions.

This submission reflects the latest FTA guidelines and creation of this new formula program since the last State Management Review.

This plan was prepared by the staff of the Public Transportation Bureau in the Office of Integrated Modal Services in the Policy and Planning Division of the New York State Department of Transportation, Albany, New York. Questions and comments may be directed to:

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Further information about the department and its activities can be found at:

http://www.nysdot.gov
General

The State Management Plan (SMP) describes the State’s policies and procedures for administrating the Federal Transit Administration’s Section 5317 New Freedom Program.

Through the Safe, Affordable Flexible, Effective Transportation Efficiency Act – A Legacy for Users (SAFETEA-LU), the New Freedom program is managed in part by the State and in part by the designated recipients in large urbanized areas (over 200,000 in population). In New York State, for the Urbanized areas from 50,000 to 200,000 the existing FTA Section 5307 Designated Recipients will also operate as Designated Recipients for the New Freedom funds. This SMP addresses New York State’s policies and procedures for the State-managed portion of New Freedom. Designated recipients in Urbanized Areas will develop their own Program Management Plan (PMP) to address the New Freedom program. The requirements for the PMP are the same as those for the SMP with the exception that the PMP is developed by designated recipients in urbanized areas and pertains only to the New Freedom program within that Urbanized area.

New York State has developed and will update this set of policies and procedures to administer the program consistent with Federal laws and guidelines and State laws, policies, and goals. These procedures and policies cover the full range of activities that are eligible under this program and interrelate with other programs under NYSDOT management.

NYSDOT works with local agencies to develop local planning processes that identify priorities at the local level. These locally identified projects are the basis for project applications in the Statewide Non-Urbanized solicitation. Eligible agencies that apply are awarded funding based on availability and become Sub-Recipients to the New York State Department of Transportation (NYSDOT).

Section 5317 Sub-Recipients are subject to review in each competitive application round. Since it is a competitive grant process, entry into the program does not guarantee subsequent grants. The application process includes data on operations and other assurances that the type of service provided meets eligibility requirements. Eligible projects includes those activities that improve transportation options for persons with disabilities that are over-and-above the current ADA regulations including: promoting the use of transit vouchers; promoting the use of employer-provided transit; mobility management activities; programs supporting volunteer driver and aide activities; improving accessible standards for transit facilities over and above that of the ADA guidelines; and capital projects such as purchasing vehicles and supporting accessible taxis, ride-sharing and vanpooling programs. Mobility management activities are defined as short-range planning and management activities and projects for improving coordination among public transportation and other transportation services providers. For a full listing of eligible activities see the circular FTA C 9045.1 chapter III pages 7-11.
NYSDOT staff maintains frequent contact with each Sub-Recipient including periodic site visits to monitor operations and any changes to approved projects, to inspect projects funded by Section 5317, and to provide technical assistance as required.

Program Goals and Objectives
The goals and objectives of New York State’s Section 5317 program are directly related to the Department’s Mission Statement which states:

"It is the mission of the New York State Department of Transportation to ensure our customers -- those who live, work and travel in New York State -- have a safe, efficient, balanced and environmentally sound transportation system."

Goals have been established for the Section 5317 program that are consistent with the Mission Statement, the FTA Section 5317 program goals, and provide overall guidance and direction to the program in New York State.

The Section 5317 New Freedom formula grant program aims to:

- Provide additional transportation service and mobility options to overcome existing barriers facing NY residents with disabilities seeking integration into the work force and full participation in society.
- Compliment or improve existing Transportation services through the identification of gaps in services and address those gaps through the locally developed coordinated planning process.

Lack of adequate transportation is a primary barrier to work for individuals with disabilities. The 2000 Census showed that only 60 percent of people between the ages of 16 and 64 with disabilities are employed. The 2006 American Community Survey found over 74 percent of persons over 16 with disabilities not in the labor force. Limited mobility in rural areas makes participation ever harder. The New Freedom formula grant program seeks to reduce barriers to transportation services and expand the transportation mobility options available to persons with disabilities beyond the requirements of the Americans with Disabilities Act (ADA) of 1990. The State seeks to identify local programs that improve options for individuals with disabilities. The local planning process and the prioritization of projects that will meet this goal are key factors to the success of the Non-Urbanized New Freedom program.

Roles and Responsibilities

Federal Transit Administration
The FTA is responsible for providing overall policy and program guidance; apportion funds annually to states; developing and implementing financial management procedures; initiating and managing program support activities; and conducting national program review and evaluation.
FTA Regional Offices have the day-to-day responsibility for administration of the New Freedom program. The Regional Office activities include: reviewing and approving state and Urbanized grant applications; obligating funds; managing grants; overseeing the state’s and Urbanized area’s implementation of their respective annual program, including revisions to the program of projects; receiving state and other DR certifications; reviewing and approving State and Program Management Plans; providing technical assistance and advice to states and Urbanized areas as needed; and performing state management reviews every three years, or as circumstances warrant.

**New York State**

The Governor has designated the New York State Department of Transportation as the agency charged with administering the Section 5317 program for the non-urbanized areas of the State. (See letter as Attachment A) In urbanized areas with populations of 50,000 or greater, the Governor has designated the existing Section 5307 Formula Recipients in the upstate counties and the Mid-Hudson Valley as the Designated Recipient. The New York State Department of Transportation has been designated as the agency charged with administering the Section 5317 program in New York Metropolitan area. That program is determined by the States Program Management Plan issued by the Public Transportation Bureau. The coordinated plans and New Freedom applications are managed by each regional Metropolitan Planning Organizations (MPO).

Within NYSDOT, the Policy and Planning Division, Office of Integrated Modal Services, Public Transportation Bureau administers several Federal and State programs for mass transit in New York State (see NYSDOT and Public Transportation Bureau organization charts in attachment C). NYSDOT is divided into a number of Offices, Divisions and Bureaus as shown on the organization chart. There are also 11 Regional offices around the state that develop transportation plans and manage the Department’s work program in their respective areas. Each of NYSDOT’S Regional offices assists with application development, technical assistance, and rating and review of applications in their geographic area. (See Department Organization Chart – Attachment C)

The program keeps abreast of issues nationally by participation in workshops arranged by the Federal Transit Administration Easter Seals and other Agencies working with the federal partners on coordinated and targeted transportation services. NYSDOT is actively involved with the Coordinating Council on Access and Mobility and serves as the lead agency for implementation of United We Ride in New York State.

The Public Transportation Bureau staff works directly with industry partners in developing the grant applications for the non-urbanized areas of the State. On-going oversight and technical assistance is provided by the Department and each grantee must comply with all of the requirements as listed in the Federal circular, assurance, master agreement, and application. Each application for funding must include a signed copy of the current Federal Certifications and Assurances for FTA Assistance Programs.
Coordination

Federal transit law, as amended by SAFETEA-LU, requires that projects selected for funding under the Elderly Individuals and Individuals with Disabilities (Section 5310), JARC (Section 5316) and New Freedom (section 5317) programs be “derived from a locally developed, coordinated public transit-human services transportation plan” and that the plan be “developed through a process that includes representatives of public, private, and non-profit transportation and human service providers and participation by members of the public.”

The Public Transportation Bureau is active in and works closely with the New York Public Transit Association (NYPTA), a group representing the transit industry in the State. NYPTA and NYSDOT collaborate on three Statewide Transit Conferences each year as a forum for issues in the industry. NYPTA is an effective organization for the review of policy issues and consultation on matters of concern between NYSDOT and the transit operators. In addition the Division annually hosts a well-attended rural and specialized transportation conference specifically addressing the issues, regulations and requirements of the FTA funded programs.

As part of the local coordinated planning process, the lead agency in consultation with participants should be identified for the process, and for adoption of the plan. Projects will not be accepted or funded unless they are supported by these local plans. Although FTA Region II and NYSDOT will not formally review and approve plans, approved plans must be submitted with all applications.

New York State strongly recommends that coordination occur at least at the county-wide level. In rural areas, coordination may also occur with the Metropolitan Planning Organization (MPO) that serves portions of a particular county where one exists. NYSDOT embraces the idea of Regional planning efforts and will accept an MPO plan that addresses rural needs if that rural area agrees with and has participated in the planning process. The coordinated plan should follow the update cycles for metropolitan transportation plans (i.e., four years in air quality nonattainment and maintenance areas and five years in air quality attainment areas). Although the planning process must be able to evaluate projects on a regular basis and have mechanisms to revise strategies based on performance and changing conditions.

NYSDOT will work closely with the Designated Recipients in the state to ensure that programs address mobility for individuals with disabilities can be identified in a local planning process and that there is enough overlap of communication and plan documents that eligible projects will not be excluded. As these programs mature and useful practices unique to the New York State institutional landscape are identified, NYSDOT will work with other DRs to publish and provide technical assistance to make these practices available to others.
**United We Ride**

In June 2003, the GAO identified 62 federal funding streams that in some form supported transportation. Many of the agencies could not identify what percentage of their budget was spent on transportation.

On February 24, 2004 the President issued an executive order establishing the Interagency Transportation Coordinating Council on Access and Mobility (CCAM). The Council is comprised of 11 Federal departments, including the Departments of Transportation, Health and Human Services, Labor, Education, Housing and Urban Affairs, Agriculture, Justice, Interior, the Veterans Administration, the Social Security Administration and the National Council on Disabilities. This led to United We Ride.

As required, the Council provided a report to the President within 1 year. The report identified five broad recommendations to improve the strategic use of federal funds to support public and human service transportation:

- Coordinated Transportation Planning
- Reporting and Evaluation
- Consolidated Access Transportation Demonstration program
- Vehicle Sharing
- Cost Allocation

In New York State, the Department of Transportation has served as the lead agency at the state level for United We Ride issues. Statewide steps have been taken to further the initiative:

- NYSDOT facilitated a Self Assessment of NYS and found there is room for improvement.
- NYSDOH Medicaid Management represented New York on a national panel discussing the coordination of human services transportation.
- Albany County, with assistance from NYSDOT, initiated a pilot project in support of one transportation brokerage for three county agencies.
- Albany and Franklin Counties had completed its Framework for Action and draft Action Plans.
- Oswego County Developmentally Disabled Planning Council (DDPC) grant
- Buffalo Center for Transportation Excellence
- Long Island Accessibility Study
- CNYRTA was a national award winner for the development of a Mobility Management Center.

NYSDOT’s United We Ride partner agencies in New York include:

- Office for the Aging
- Department of Health, Office of Medicaid Management
- Office of Temporary Disability Assistance
- Office of Mental Retardation and Developmental Disabilities
- Council on Children and Families
- Developmental Disabilities Planning Council
Most Integrated Setting Coordinating Council

The Most Integrated Setting Coordinating Council (MISCC), established by Chapter 551 of the Laws of 2002, is responsible for developing a comprehensive Statewide plan to ensure that people of all ages with physical and mental disabilities receive care and services in the most integrated settings appropriate to their individual needs.

On December 30, 2010, the Council released the latest version of the MISCC plan. (http://www.opwdd.ny.gov/sites/default/files/documents/miscc_2010_12_MISCC_Plan_123010.pdf) The plan “identifies baseline data and creates measurable agency specific housing, employment, transportation and long term care goals that will assist New Yorkers with disabilities to live in the most integrated settings.” Their progress will be reported subsequently.

- NYS Agency Council members are:
  - Office of Mental Health, Department of Health
  - State Office for the Aging
  - Office of Mental Retardation and Developmental Disabilities
  - Education Department
  - Office of Alcoholism and Substance Abuse Services
  - Division of Housing and Community Renewal
  - Department of Transportation
  - Office of Children and Family Services
  - The Commission on Quality of Care and Advocacy for Individuals with Disabilities

The nine appointed members comprise: three consumers of services for individuals with disabilities, three individuals with expertise in the field of community services for people of all ages with disabilities, and three individuals with expertise in or recipients of services available to senior citizens with disabilities.

In October of 2007, the MISCC committee approved the creation of a Task Force on Transportation as a working group to the full committee. NYSDOT was named as the chair and in discussions with the agencies participating in the UWR effort; it was decided to fold the NYS UWR effort into the MISCC Transportation Working Group to capitalize on the momentum of the committee.

This Sub-Committee has continued to meet to discuss on-going transportation coordination issues as they relate to the population of individuals with disabilities. The
MISCC has produced several plans since 2007 and are currently working on redesigning the effort with the new administration. The transportation committee allows for active discussions among agencies on this topic since many of the strategies to address gaps in services for individuals with disabilities are similar to those issues for individuals with limited incomes or seniors. The development of programs to support opportunities for coordination across agencies and funding streams to breakdown barriers to increased mobility for these target populations will be the working groups highest priority. This document will continue to be updated as MISCC’s activity occurs with respect to transportation options for individuals with disabilities.

Further information regarding MISCC can be found here;

http://www.opwdd.ny.gov/opwdd_community_connections/miscc/

Program Constraints

The next several sections will describe the overarching requirements for these funds and the approach that NYSDOT will take to achieve greater mobility for these target populations through the administration of these programs.

Eligible Sub-recipients

Per FTA Circular C_9045.1 on page III-4, there are three categories of eligible Sub-recipients of New Freedom funds:

1. Private non-profit organizations (registered with the NYS Attorney General);
2. State or local governmental authority; and
3. Operators of public transportation services. Including private operators of public transportation services (who have filed a Vender Responsability Questionnaire with the NYS Office of State Comptroller (OSC)).

Local Share and Local Funding Requirements

Per FTA Circular C_9045.1 on pages III-7 through III-11, New Freedom funds may be used to finance capital, planning and operating expenses. The local share of eligible capital costs shall not be less than 20 percent of the net cost of the activity. The local share of the eligible operating costs shall be no less than 50 percent of the net operating costs of the activity. All of the local share must be provided from sources other than Federal DOT funds. Local share may include other Federal funds derived from Federal programs that are eligible to be expended for transportation, other than from Federal DOT programs.

NYSDOT will NOT participate by using Omnibus state match to fund half of the non-Federal share (up to 10% of the total project cost). Not all eligible applicants are eligible for these funds the way the legislation is currently in the budget. This decision may be revisited if and when a change is made in the legislation that would make other than...
municipalities eligible for the funds. Since the state Omnibus program is a capital assistance program, it will not participate in operating projects/programs.

**Program Measures**

Under the Government Performance Results Act (GPRA), The FTA is required by law to “establish performance goals to define the level of performance” and to also “establish performance indicators to be used in measuring relevant outputs, service levels, and outcomes” for each of its programs. The performance measures described here are designed to fulfill obligations under this Act. NYSDOT will use these measures at a program level, and will not be used to assess individual grants.

The three measures established for the New Freedom Program are:

1. Increases or enhancements related to geographic coverage, service quality and/or service times that impact availability of transportation services for individuals with disabilities as a result of the New Freedom projects implemented in the current reporting year.
2. Additions or changes to environmental infrastructure (e.g., transportation facilities, sidewalks, etc), technology, and vehicles that impact availability of transportation services as a result of the New Freedom projects implemented in the current reporting year.
3. Actual or estimated number of rides (as measured by one-way trips) provided for individuals with disabilities as a result of the New Freedom projects implemented in the current reporting year.

NYSDOT will require each successful applicant to report on these performance measures for each project awarded. NYSDOT may apply additional measures to the program as the program develops and will update this document to reflect new reporting requirements.

**Annual Program of Projects Development and Approval Process**

NYSDOT issues a request for proposals for projects seeking Section 5317 program funding for non-urbanized areas with a population less than 50,000. This is a competitive funding process. NYSDOT will issue funding maximums as part of its application process. In 2008, NYSDOT will award funding from FFY 2006 and 2007. Depending on the interest and awarded funds, NYSDOT will continue to hold competitive solicitations on an annual basis across the rural component of the State to ensure Federal Funds will be obligated in time before they expire. NYSDOT has also begun to add Small Urbanized Areas into the solicitation process if they have not started one on their own. This also ensures that funds are available on a timely basis and the smaller MPOs do not have to support the solicitation process. The MPOs however take their projects that applied in their area and score them independently from the rural process described
elsewhere in this document. The joint solicitation is solely to alleviate administrative burden.

Funding from Section 5317 requires that projects are selected in a competitive process, project applications and therefore will be subject to scoring. Applications will be made available and will illustrate how different sections will be scored. Generally, projects will be evaluated based on the following:

- Project Need/Goals and Objectives (25 Points)
- Implementation Plan (25 Points)
- Project Budget (20 Points)
- Coordination and Program Outreach (20 Points)
- Program Effectiveness and Performance Indicators (10 Points)

All successful applicants must enter into to an Agreement with the New York State Department of Transportation to recognize the federal Certifications and Assurances.

**Project Selection Criteria and Method of Distributing Funds**

Funding available from the New Freedom program for non-urbanized areas is allocated at the Federal level and disbursed by the State on a competitive basis. It is the goal of the New York State Department of Transportation to fully obligate its Section 5317 allocation every year as necessary beginning in 2008 with FFY 2006 and FFY 2007 funds. The next solicitation will depend on the amount of lapsing funds available to put out for a solicitation and will include several of the Small Urbanized areas (SUZAs) as described earlier.

NYSDOT expects that funds available for the non-urbanized areas of the state will not be sufficient to meet the demand for funding. Therefore the competition for the award of the funds will look at what percentage of the project can be funded for each application. Since the projects will have to come from a locally developed planning process, the State review will concentrate on factors that determine at what level of funding the proposed project is still viable. Additional consideration is given to organizations that serve a majority of minority persons to ensure a fair and equitable distribution of funds to traditionally underserved target populations.

NYSDOT will make every effort to allow for the widest distribution of the application through announcement, press release, NYS contract reporter, County Associations, NYPTA and other state agencies and other outlets. In addition, project selection criteria will adhere to the title VI process outlined in Appendix B.

The Small Urbanized areas (SUZAs) funding is under the responsibility of the State. The Governor, in cooperation with local officials has designated the existing Section 5307 Recipients as the DRs for the New Freedom Program. (See Attached letter) The allocation for the SUZA tier was published for individual areas in the 2/3/2006 Federal Register notice for FFY 2006 is not listed individually in subsequent years. The SUZA funds will be available on an annual basis and could be part of the State’s solicitation
process if the MPO has not created their own. (see Funding awards and sub-allocations in Attachment B) NYSDOT will continue to use the distribution listed in FFY 2006 until the next census is available. Funds not applied for at this tier will be available to other SUZAs in subsequent rounds or if known before the selection that no projects are forthcoming from an area and the local DR attests to no projects, the funds will be used as part of the SUZA distribution.

In evaluating grant applications, the State considers the following criteria:

**A. Project Needs/Goals and Objectives (25 points)**
The project should directly address transportation gaps and/or barriers identified through the locally developed human services transportation planning process, or are otherwise based on a documented assessment of needs within the designated communities of concern. Project application should clearly state the overall program goals and objectives, and demonstrate how the project is consistent with the objectives of the JARC and NF formula programs.

**B. Implementation Plan (25 points)**
For projects seeking funds to support program operations, applicants must provide a well-defined service operations plan, and describe implementation steps and timelines for carrying out the plan. The project application should indicate the number of persons expected to be served, and the number of trips (or other units of service) expected to be provided. The service operations plan should identify key personnel assigned to this project. Project sponsors should demonstrate their institutional capability to carry out the service delivery aspect of the project as described.

For projects seeking funds for capital purposes, the applicant must provide a solid rationale for use of JARC and NF funds for this purpose. Also, provide an implementation plan and timelines for completing the capital project.

Procurement of capital assets with federal funds into a program requires significant documentation and requirements. Please indicate the level of experience your agency or organization has with procuring such assets with capital funds.

**C. Project Budget (20 points)**
Applicants must submit a clearly defined project budget, indicating anticipated project expenditures and revenues, including documentation of matching funds. Proposals should address long-term efforts and identify potential funding sources for sustaining the service beyond the formula period.

**D. Coordination and Program Outreach (20 points)**
Proposed projects will be evaluated based on their ability to coordinate with other community transportation and/or social service resources. Applicants shall clearly indicate where in the coordinated plan there is a need for the proposed project. Project sponsors should clearly identify project stakeholders, and how they will keep stakeholders involved and informed throughout the project. Project sponsors should also describe how they would promote public awareness of the project. Letters of support from key stakeholders should be attached to the formula application.
E. Program Effectiveness and Performance Indicators (10 points)
The project will be scored based on the project sponsor’s ability to demonstrate that the proposed project is the most appropriate match of service delivery to the need, and is a cost-effective approach. Project sponsors must also identify clear, measurable outcome-based performance measures to track the effectiveness of the service in meeting the identified goals. A plan should be provided for ongoing monitoring and evaluation of the service, and steps to be taken if original goals are not achieved. Sponsor should describe their steps to measure the effectiveness and magnitude of the impact that the project will have on low-income residents and/or individuals with disabilities.

1Current or Previous Sub-recipients Project Review
Existing sub-recipients awarded FTA JARC or NF funding will undergo a review of current and past performance. The performance measures and review of the existing or previous sub-recipient within the FTA grant system administered by NYSDOT will be: 1. Ability to submit reports correctly and on time; 2. Ability to meet stated project milestones; 3. Draw down of project funds within the contract term; 4 Ability to account for and maintain project equipment; 5. Ability to comply with FTA and NYS rules and regulations as stated in the guidance material.

Additional scoring for Minority Served Agencies
Agencies who serve predominantly minority consumers (50%) will be given a 5% additional scoring over and above their total score.

Appeals Process
If a project sponsor desires clarification on a project score, the NYSDOT Evaluation Committee will address written questions regarding scoring techniques and practices. If the project sponsor is still unhappy with the way their project was scored, the sponsor may submit a written request (appeal). The Committee will consider the appeal and respond within 15 days as to the merit of the appeal and the effect on the final awards.

Administration, Planning and Technical Assistance

Transfer of Funds
Existing Section 5307 Designated Recipients and federally-recognized Indian tribes that receive awards as a result of the competitive selection can upon entering into an agreement with NYSDOT transfer funds to their direct relationship with FTA. This option is not available to areas greater than 200,000 in population. Grants are executed by the 5307 Recipient and those transfers will be noted as part of the NYSDOT program of projects for each funding source. Once a transfer is completed, NYSDOT will forward the completed Supplemental agreement to FTA for final sign-off so the agreements can be attached to the appropriate grant before drawdown.
**Private Sector Participation**

As part of the coordinated planning process, private sector transportation providers are encouraged and expected to be included. Documentation of such efforts should be included in any application submitted for funding. Participation by the private sector may also include representatives of private business or transportation providers in the planning process, consultation with local economic development and Workforce Investment Boards, and inclusion of local Chambers of Commerce is strongly encouraged.

**Charter Bus Requirements**

FTA grantees are prohibited from using federally funded equipment to provide charter service if a registered private charter operator expresses interest in providing the service. Recipients under Section 5317 program are not subject to the charter rule when using FTA-funded vehicles to provide public transportation or coordinated human service transportation or to serve groups of individuals with disabilities, the elderly, or low income individuals. Generally Section 5317 recipients are not buying vehicles. When vehicle purchases are made by 5316 sub-recipients the same oversight that applies to 5311 will be expected.

To assist grantees in compliance with the rules, NYSDOT staff provides technical assistance to sub-recipients as needed at regional meetings and conferences, through site visits, as well as through our grant applications instructions. NYSDOT staff instructs sub-recipients to not provide charter service and also directs sub-recipients to FTA’s website if they receive a request or have questions about exemptions or exceptions.

http://ftawebprod.fta.dot.gov/CharterRegistration/(S(jk3mqq55j143atnmghe0sr45))/Default.aspx

New York State also requires, as part of all applications for capital and operating assistance, that the recipient, as well as any third party operators, sign the FTA Annual Certifications and Assurances. Sub-recipients are also required to report quarterly to NYSDOT on any charter service provided under one of the four exceptions. A report is available on NYSDOT PTB’s website and a reminder email is sent out to all sub-recipients quarterly. Quarterly reports on charter activity from the sub-recipients, if any, are then consolidated for reporting through TEAM.

Any complaints alleging sub-grantee noncompliance with the charter service agreement will be investigated and appropriate action taken consistent with the charter service rules.

**Civil Rights**

NYSDOT is required to assure, and all subrecipients are required as part of each application for capital assistance and standard contract agreement established with NYSDOT to assure compliance with all federal civil rights requirements, including Title VI, Equal Employment Opportunity (EEO) and Disadvantaged Business Enterprise
(DBE). Any required compliance reports are forwarded to the Department’s Office of Civil Rights for inclusion in the Department's report to USDOT. For a detailed description on New York State’s Civil Rights program, see appendix C.

i. TITLE VI

NYSDOT meets the standard assurance, general requirements and program specific requirements for Title VI compliance through its approved FTA Title VI Program, and as follows:

1. FTA Title VI Standard Assurance:
   - NYSDOT complies with the Title VI Standard Assurance requirements by certifying compliance with the Federal Certifications and Assurances for FTA Assistance each year for grant applications submitted by the Department to the FTA, and also by passing down these requirements to each subrecipient. Applicants for FTA Section 5316 program funding must agree to the Federal Certifications and Assurances for FTA financial assistance with each grant application for federal funding submitted for evaluation.
   - Applicants for FTA Section 5316 funding are required to have a current Civil Rights policy adopted, conspicuously displayed, that complies with Title VI of the Civil Rights Act of 1964. They are further directed to NYSDOT’s Title VI policy on the Department’s website for adoption or adaptation if they do not have a current policy in place. The procedure for filing discrimination complaints is described on the Department’s website, with detailed information on how to use the procedure. FTA Section 5316 program subrecipients of the Department are advised of the complaint procedure in application materials and can obtain further information from the Department’s Office of Civil Rights.

2. General Requirements:
   NYSDOT meets the general requirements by requiring each subrecipient to submit, with each application it files with NYSDOT, a certification regarding any lawsuits or discrimination complaints and a summary of any civil rights compliance review activities. Reports of any lawsuits or complaints or any civil rights compliance review activities are forwarded to the Department’s Office of Civil Rights for inclusion in the Department's report to USDOT. NYSDOT is required to submit to FTA once every three (3) years the following information on behalf of its subrecipients:
   A. A description of any lawsuits or complaints alleging discrimination in transportation service delivery in the last year and the status or outcome;
   B. A summary of all civil rights compliance review activities conducted in the last three years; and
   C. An analysis of any environmental and/or social impacts as a result
of proposed construction projects, including the impact on minority communities, for projects that do not qualify as a categorical exclusion in the environmental process.

3. Program Specific Requirements:

NYSDOT strives to assist subrecipients in applying for FTA Section 5316 program funding assistance, including efforts to assist Limited English Proficient (LEP) and minority applicant populations. This includes technical assistance outreach through the NYSDOT website, one-on-one personal assistance when requested, training opportunities to assist applicants in meeting the state and federal requirements for providing public transportation in New York State, workshops held at a variety of locations throughout the state which provides an additional opportunity for individualized assistance in aspects of applying for FTA federal financial assistance and meeting FTA Section 5316 program requirements.

NYSDOT’s ongoing process to monitor subrecipient compliance with Title VI includes site visits of subrecipients and the review of applications (which include a Title VI certification).

The NYSDOT Title VI complaint procedure process can be found on the Department’s website at www.dot.ny.gov.

The NYSDOT Title VI/Environmental Justice program is administered and implemented by the Office of Civil Rights under the Audit & Civil Rights Division. Any required compliance reports are forwarded to the Department’s Office of Civil Rights, for inclusion in the Department's report to USDOT.

ii. ADA REQUIREMENTS TC \l1 "Equal Employment Opportunity Requirements"

NYSDOT is responsible for its own compliance and for assuring FTA that all subrecipients are in compliance with FTA’s EEO requirements, which are to not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or handicap; to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to race, color, creed, national origin, sex or age; and to post in conspicuous places, and make available to employees and applicants for employment, notices setting forth an EEO policy.

Disadvantaged Business Enterprise Program Requirements

New York State requires, as part of all applications for capital and operating assistance, that the recipient assure that they are in compliance with the requirements of the

Assurance of Nondiscrimination on the Basis of Disability is required of all applicants for FTA Section 5316 program funding, who must certify in their application through the most recent FTA Certifications and Assurances that they will not discriminate on the basis of disability, and are accountable to this through the executed standard contract agreement.

### iii. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM REQUIREMENTS

The FTA Section 5316 program in NYS permits the purchase vehicles through the State’s central purchasing agency, the Office of General Services (OGS). The OGS State contract developed for FTA Assistance Programs requires the contractor to certify that it has complied with the requirements of 49 CFR Part 26.49, regarding the participation of disadvantaged business enterprises in the procurement of transit vehicles. The contractor must also certify that it has complied with the requirements of 41 CFR Part 60, relating to Equal Employment Opportunity. Absent this certification, properly completed and signed, the prospective contractor’s bid is deemed non-responsive.

### iv. EQUAL EMPLOYMENT OPPORTUNITY (SUBRECIPIENT) REQUIREMENTS

Any FTA Section 5316 program subrecipients in the State of New York receiving capital assistance in excess of $1 million must comply with all applicable Equal Employment Opportunity (EEO) requirements. The subrecipient is required to submit its EEO Program and provide updates every three years to ensure compliance.

### v. LIMITED ENGLISH PROFICIENCY (LEP)

The FTA Section 5316 program in NYS strives to provide access to funding for all qualified applicants. The Department has entered into vendor contracts to have language translation services upon request. Language translation services are available for technical assistance by phone throughout a project solicitation period. If there becomes a need, the contract can be extended to include this service year-round. The current vendor selected is the only Minority and Women owned Business Enterprise (MWBE) on the list of available vendors through an OGS State contract for services.

### State Program Management

NYSDOT, pursuant to FTA Circulars C 9045.1, has developed program management practices for the grants under it management.
**Minimum Requirement for Potential Applicants**

All applicants must show an established need for the project and that need is addressed in the locally developed coordinated plan as required. All applicants must ensure that adequate funds are available to match Section 5317 funds and to provide for continuing service. Applications for Section 5317 – New Freedom must provide transportation services that complement existing services and go beyond current ADA requirements to expand the mobility options for individuals with disabilities.

**Financial Management**

Approved projects will/may submit payment applications on a quarterly basis. The payment application will follow the standard New York State Self Certification format and provide details on the status of the awarded funds for each project type awarded. In addition, the sub-recipient will provide financial and if appropriate ridership or other use driven statistics to report on the status of the grant.

Payments for services are “first instanced” by the State. A NYS payment form is submitted to the Grants Section in the Department’s Accounting Bureau. The Grants Section reconciles TEAM grant balances to the Department records that track grant balances on the Integrated Accounting System (State database). The sub-recipient projects are set up as detailed ledgers in the State database where the first instance payments are keyed. The detail ledgers are the State’s source document to initiate a FTA reimbursement.

**Grants Administration**

The Program of Projects is determined by the scoring of applications from the Main Office, the Regional Office and the reviews of the Interagency Review Committee. Applicants are listed in descending order, from the highest scoring down to the lowest. Determining whether applicants are on the funded list, partially funded list, or the standby list is a combination of available funding, the funding match for the project and the quality of the lower ranked applications.

The Program of Projects is submitted through FTA’s TEAM system initially as a draft. FTA Region 2 staff review the submission and ask any questions. When all questions and concerns are addressed, the request is formally submitted. All open grants are reported upon annually in October, updating milestones as necessary.

**Asset Management**

The State tracks the real property of federally acquired assets through an active and dynamic inventory management system. Assets are assigned a status (Active, Destroyed, Retired, Disposed, etc) in the inventory as they are purchased and disposed. This inventory management system has a mechanism to adjust the service life of any FTA funded asset that is removed from service for an extended period of time (greater than 15 days). Sub-recipients who elect to retire federally funded assets before the end of their useful must request this in
an email or letter to the State, explaining why this was done and come up with a plan on how to return the remaining Federal/State interest to the respective parties.

All sub-recipients must supply the state with documentation that it will maintain the federally funded asset according to the sub-recipient's own maintenance plan for the asset. Finally the sub-recipient must also document how it enforces warranty claims on federally acquired assets. This documentation should identify warranty repairs, record the warranty claim, and show how the sub-recipient follows-up on any unpaid claims.

**Site Visits**

In addition to the regular outreach and assistance that NYSDOT provides, it is still necessary to have a consistent overarching review process for sub-recipients of the Federal and State funds to ensure that all requirements are being met. Site visits are conducted as appropriate based on a risk assessment of each program area. For the FTA Section 5310 program, a pre-visit questionnaire is used to determine required site visits. For the FTA Section 5311, 5316 and 5317 programs, a desk audit compliance review is used to assess sub-recipients and determine where site visits are required.

The purpose of these site visits is to assess sub-recipient management practices and program implementation to evaluate compliance with Federal and State requirements. The site visit consists of examining FTA and State-funded facilities and equipment, FTA funded operations, and to review necessary documentation. Site visits are performed by NYSDOT staff or consultant(s). A site visit procedures document outlines what items should be reviewed during a visit, and also serves as a checklist. Any serious finding at any site visit is followed up with a letter to the sub-recipient to create a plan for corrective action. Site visits may also be triggered by new applications, non-reporting, complaints received and/or Federal or State single audits.

**Reporting and Monitoring**

All applicants must complete a quarterly milestone report and submit with any requests for payment. Milestone reports are due regardless of a payment request is made as long as there is a balance on the awarded grant. Information provided on these reports is reviewed to overall program performance against the original agreement or as modified. Trends of specific problem can be identified through the analysis of these records. Grant recipients are not required to use a specific accounting system to prepare reports as long as the system used provides accurate information.

Site visits are conducted periodically to assure that projects are implemented as described in the application and quarterly reports, as well as to provide face-to-face technical assistance if necessary. Any serious finding is followed up with a letter to the Sub-Recipient and to create a plan for corrective action.
NYSDOT provides a Financial Status Report for each active grant to its FTA Regional Office on an annual basis via the Transportation Electronic Award and Management System (TEAM). The current program of projects is also submitted to the Regional Office as part of the FTA grant application process.

**Property Management**

Legal ownership of all vehicles purchased under the Section 5316 and Section 5317 programs is retained by the designated recipient. When titling a vehicle, sub-recipients are listed as a “Registered Owner,” responsible for the licensing and collision insurance; and the designated recipient as the “Legal Owner” and loss payee should anything happen to the vehicle. Ownership of all other equipment will be vested with the designated recipient, with local daily control by the sub-recipient.

The designated recipient will be responsible for keeping an accurate database that contains all vehicle inventory records. Reports with the database will contain vehicle year, make, and model; date accepted; included equipment; location; federal grant number, inspection data, mileage, type of funding used to purchase the vehicle and the name, address, and phone number of the sub-recipient who has daily control over the vehicle. Preventive maintenance scheduled services are required and must be documented in reporting on a semi-annual basis to NYSDOT.

**Section 5317 – New Freedom – TEAM Reports**

NYSDOT provides a Financial Status Report for each active grant its FTA Regional Office on an annual basis via the Transportation Electronic Award and Management System (TEAM). The current program of projects is also submitted to the Regional Office as part of the FTA grant application process.

**Third-Party Agreements**

Any third party agreements to deliver services funded by these programs must be approved by the Public Transportation Bureau staff to assure that Federal and State requirements are met.

**Other Provisions**

Sub-recipients are required to comply with other Federal requirements such as environmental protection, Buy America provisions, pre-award and post-delivery reviews, restrictions on lobbying, prohibition on exclusive school transportation, and drug and alcohol testing. New York State requires that all Sub-Recipients submit a signed acknowledgement of these Federal certifications and assurances for FTA assistance programs for each award.

A listing of all “other provisions” can be found in the Chapter VIII Other Provisions in FTA Circular C 9045.1. More information about individual requirements can be found in the Master Agreement on the Certifications and Assurances on the TEAM website at
Attachment A: NYSDOT 11/07 letter to Transportation providers

State of New York
Department of Transportation
Albany, N.Y. 12232
www.nysdot.gov

Astrid C. Glynn
Commissioner

Elliot Spitzer
Governor

November, 2007

Dear Colleagues:

This notice is to inform you of significant changes to several Federal Transit Administration (FTA) programs that will require adjustments to the planning, administration, and project selection process for the following programs:

- Section 5310 – Elderly Individuals and Individuals with Disabilities
- Section 5316 – Job Access & Reverse Commute
- Section 5317 – New Freedom

The Safe, Affordiable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU) requires the creation of a Locally-Developed, Coordinated Public Transit, Human-Service Transportation Plan. Beginning in Federal Fiscal Year (FFY) 2007, this process is required prior to any project being eligible for funding under each of the programs listed above.

The Locally Developed Coordinated Public Transit and Human Service Planning process should establish priorities for meeting the transportation needs of the target populations under these programs. A cooperative solicitation process must also be developed to award these funds. This comprehensive planning and coordinated process should include transportation planning agencies, public and private transportation providers, non-profit transportation providers, human services providers, other government agencies that administer programs that provide for transportation such as Temporary Assistance for Needy Families (TANF), Workforce Investment Act, Non-emergency Medical Transportation (NEMT), and stakeholders agencies that represent the individuals with disabilities and participation by the public. The final FTA circulars for Sections 5310, 5316 and 5317 that include the coordinated planning requirement are now available at http://www.fta.dot.gov/laws/reg_eea_circulars_guidance.html. We have also attached a brief program description and funding allocations for NYSS (Attachment A) for each of these programs.

United We Ride is a Federal-level effort to improve coordination of Federal Funds that support transportation and improve access and mobility for these target populations. These new programs and planning effort is required as part of the Presidential Executive Order that called for coordinated planning in the Federal Report to the President in the summer of 2005. Many of the tenets of a coordinated planning process are already in place in many communities throughout New York State. These new formula programs will continue to rely on these relationships and we encourage the documentation of those instances as part of the process.
A brief description of the remainder of the attachments is provided below.

**Attachment B: Designation of Recipients for new Formula Funds**
The legislation calls for the Chief Executive Officer of each State in consultation with responsible local officials and publicly owned operators of public transportation to designate the recipients for these new FTA funds and for the State to develop a plan to implement these new programs. This process is now in the final stage of completion, with the recommendation that the Governor convey authority for formal designation to the Department. Once in place, the Department’s plan is to designate specific areas as Designated Recipients as they finalize their local coordinated plans and program of projects.

**Attachment C: Coordinated Planning MPOs and Non-Urbanized Areas.**
The legislation also requires that the Designated Recipient (DR) conduct the competitive selection process for projects within their area. It also states that the DR may establish alternative arrangements to administer and conduct the process. Pursuant to this guidance, NYS DOT requests that the Metropolitan Planning Organizations (MPOs) in the urbanized areas conduct the planning process and competitive solicitation in their area and that counties outside the MPO areas become lead agencies for this planning process.

**Attachment D: Funding opportunities for JARC, New Freedom in the SAFE Infrastructure era**
Finally, these new FTA Formula programs for Section 5306 (JARC) and Section 5317 (New Freedom) will involve new processes under coordinated planning to access the funds. In addition, the 5310 application review process will change depending on where your agency resides in the state.

As part of the United We Ride effort in New York, New York State Agencies are developing an outreach session that can be used to aid in the development of this effort. Please contact us if you are interested in developing a program for your area. If you have questions or are in need of technical assistance throughout this process, please do not hesitate to contact Tom Vaughan at (518) 457-3347.

Sincerely,
Ron Epstein, Director
Public Transportation Bureau

cc: Brigid Hynes-Cheira, FTA Region II Administrator
    L. Weiskopf, NYS DOT Office of the Commissioner
    S. Gee, NYS DOT Deputy Commissioner
    K. Rae, Director, NYS DOT Policy & Planning Division
    R. Zerillo, Director, NYS DOT Office of Policy, Planning & Performance
    T. Clark, Director, NYS DOT Office of Regional Planning and Program Coordination
    D. Hanson, Acting Director, NYS DOT Office of Integrated Modal Services
    M. Novakowski, Director, NYS DOT Office of Finance
    G. McCoy, Acting Director, NYS DOT Operating Division
    M. Silo, Director, NYS DOT Delivery Division
    NYS DOT Regional Directors, Regions 1-11
    NYS DOT Regional Program & Planning Managers, Regions 1-11
    NYPIA/NYS Public Transit System Managers
    New York State MPO Directors
    MISCC/United We Ride New York State Agency Partners
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Attachment B: New York Section 5317 funding by Fiscal year and Recipient/Area

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Notes
Grey Funds are programmed
Yellow cells are funds that were not programmed by their expiration date are were returned to the national pot
Tan Cells are funds still available based on the joint solicitation in 2010, these are available for this year only
Blue cells are funds that will lapse if not programmed by 9/30/11
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Attachment C: Organizational Chart